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8
9 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. AL2005-119

12 GRACE K. KIM
13 5271 La Luna Drive
La Palma CA 90623

STATEMENT OF ISSUES

14 Respondent.
15

16 Complainant alleges:

17 PARTIES

18 1. Heather Martin (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the California Board of Occupational Therapy, Department
20 of Consumer Affairs.

21 2. In or about mid-June, 2005, the California Board of Occupational Therapy,
22 Department of Consumer Affairs received an application for an Occupational Therapist license
23 from Grace K. Kim (Respondent). On or about June 15, 2005, Grace K. Kim certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on October 18, 2005.

26 JURISDICTION

27 3. This Statement of Issues is brought before the California Board of Occupational
28 Therapy (Board), Department of Consumer Affairs, under the authority of the following laws of

1 the California Business & Professions Code:

2 A. Section 2570.28 states in pertinent part:

3 "The board may deny or discipline a licensee for any of the following:

4 "(a) Unprofessional conduct, including, but not limited to, the following:

5 "...

6 "(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
7 violation of, or conspiring to violate, any provision or term of this chapter or any regulation
8 adopted pursuant to this chapter.

9 "(d) Making or giving any false statement or information in connection with the
10 application for issuance or renewal of a license.

11 "....

12 "(h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to
13 the qualifications, functions, or duties of a licensee.

14 "..."

15 B. Section 2570.2 of the Code states in pertinent part:

16 "As used in this chapter, unless the context requires otherwise:

17 "....

18 "(b) 'Aide' means an individual who provides supportive services to an occupational
19 therapist and who is trained by an occupational therapist to perform, under appropriate
20 supervision, delegated, selected client and nonclient-related tasks for which the aide has
21 demonstrated competency. An occupational therapist licensed pursuant to this chapter may
22 utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist
23 in his or her practice of occupational therapy. An occupational therapy assistant shall not
24 supervise an aide engaged in client-related tasks.

25 "....

26 "(g) 'Occupational therapist' means an individual who meets the minimum education
27 requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this
28 chapter and whose license is in good standing as determined by the board to practice

1 occupational therapy under this chapter. Only the occupational therapist is responsible for the
2 occupational therapy assessment of a client, and the development of an occupational therapy plan
3 of treatment.

4 ". . . .

5 "(i) "Occupational therapy services" means the services of an occupational therapist or the
6 services of an occupational therapy assistant under the appropriate supervision of an occupational
7 therapist.

8 ". . . .

9 "(k) "Practice of occupational therapy" means the therapeutic use of purposeful and
10 meaningful goal-directed activities (occupations) which engage the individual's body and mind in
11 meaningful, organized, and self-directed actions that maximize independence, prevent or
12 minimize disability, and maintain health. Occupational therapy services encompass occupational
13 therapy assessment, treatment, education of, and consultation with, individuals who have been
14 referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who
15 are receiving occupational therapy services as part of an Individualized Education Plan (IEP)
16 pursuant to the federal Individuals with Disabilities Education Act (IDEA)). Occupational
17 therapy assessment identifies performance abilities and limitations that are necessary for
18 self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy
19 treatment is focused on developing, improving, or restoring functional daily living skills,
20 compensating for and preventing dysfunction, or minimizing disability. Occupational therapy
21 techniques that are used for treatment involve teaching activities of daily living (excluding
22 speech-language skills); designing or fabricating selective temporary orthotic devices, and
23 applying or training in the use of assistive technology or orthotic and prosthetic devices
24 (excluding gait training). Occupational therapy consultation provides expert advice to enhance
25 function and quality of life. Consultation or treatment may involve modification of tasks or
26 environments to allow an individual to achieve maximum independence. Services are provided
27 individually, in groups, or through social groups.

28 ". . . ."

1 C. Section 2570.18. of the Code states in pertinent part:

2 "(a) On and after January 1, 2003, a person shall not represent to the public by title, by
3 description of services, methods, or procedures, or otherwise, that the person is authorized to
4 practice occupational therapy in this state, unless authorized to practice occupational therapy
5 under this chapter.

6 "(b) Unless licensed to practice as an occupational therapist under this chapter, a person
7 may not use the professional abbreviations "O.T.," "O.T.R.," or "O.T.R./L.," or "Occupational
8 Therapist," or "Occupational Therapist Registered," or any other words, letters, or symbols with
9 the intent to represent that the person practices or is authorized to practice occupational therapy.

10 ". . . ."

11 D. Section 2570.13. of the Code states in pertinent part:

12 ". . . .

13 "(c) An aide providing delegated, client-related supportive services shall require
14 continuous and direct supervision by an occupational therapist."

15 E. Section 480 of the Code states:

16 "(a) A board may deny a license regulated by this code on the grounds that the applicant
17 has one of the following:

18 ". . . .

19 "(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially
20 benefit himself or another, or substantially injure another; or

21 "(3) Done any act which if done by a licentiate of the business or profession in question,
22 would be grounds for suspension or revocation of license.

23 "The board may deny a license pursuant to this subdivision only if the crime or act is
24 substantially related to the qualifications, functions or duties of the business or profession for
25 which application is made.

26 ". . . ."

27 ///

28 ///

1 **CHARGES AND ALLEGATIONS**

2 **First Cause for Denial of Application**

3 **(Unlicensed Practice of Occupational Therapy)**

4 4. Respondent's application is subject to denial under both sections 2570.28(c) in
5 conjunction with section 2570.18 and section 480(a)(2) in that between October 2004 and June
6 2004, Respondent practiced at Pediatric Therapy Network in Torrance, California as an
7 occupational therapist (OT) without having an OT license.

8 **Second Cause for Denial of Application**

9 **(False Statement in Connection With Application)**

10 5. Respondent's application is subject to denial under section 2570.28(d) and section
11 480(a)(2) in that Respondent swore under penalty of perjury that the information in her June
12 2005 application was true and correct, yet listed her position at Pediatric Therapy Network from
13 October 2003 to June 2004 as that of "OT Aide" when, in fact, she functioned there as an OT.

14 **Third Cause for Denial of Application**

15 **(Fraudulent, Dishonest, or Corrupt Act Substantially Related to OT)**

16 6. Respondent's application is subject to denial under section 2570.28(h) and section
17 480(a)(3) in that while practicing as an OT at Pediatric Therapy Network, Respondent allowed
18 her employer unknowingly to bill for services that Respondent never provided to some of her
19 child patients. Billing for services not rendered would be a violation for any licensed OT.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the California Board of Occupational Therapy issue a
23 decision:

24 1. Denying the application of Grace K. Kim for an occupational therapist license;

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2. Taking such other and further action as deemed necessary and proper.

DATED: April 5, 2006.



HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant